

## II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this Amendment, claims 1-34 remain pending. Claim 34 has been added.

### *Rejections Under 35 U.S.C. § 103*

Claims 1-14 and 23-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,659,366 issued to Kerman et al. (Kerman), in view of U.S. Patent No. 7,233,781 issued to Hunter et al. (Hunter), in view of U.S. Publication No. 2002/014099 by Novak et al. (Novak), further in view of U.S. Patent No. 6,760,918 issued to Rodriguez et al. (Rodriguez).

Claim 1 wherein the second communication device creates a non-broadcast media channel, wherein the at least one communication device detects indications that the non-broadcast media channel that is available to the at least one communication device, wherein the second communication device pushes the non-broadcast media channel over the communication network to the at least one communication device based on queuing after the detection of the non-broadcast media channel.

The examiner has not addressed each of these elements, for example, the cited references do not teach pushing the non-broadcast media channel over the communication network to the at least one communication device based on queuing after the detection of the non-broadcast media channel. As such, claim 1 is patentable for at least these reasons.

Claim 12 recites selecting, by one of the first communication device and the second communication device, a personal media delivery cost that is based on at least queuing; detecting, by the second communication device, the personal media channel that was pushed to the second communication device. The cited references do not teach a personal media delivery cost that is based on at least queuing. Accordingly, claim 12 is patentable for at least these reasons.

In addition, claim 12 recites that the first communication device in the first private home requests from a third party content provider through a communications network that the third party content provider anonymously push a third party channel over the communications network to the second communication device in the second private home. While the examiner has vaguely cited paragraphs of the application, no analysis has been provided to indicate which elements of the cited reference operate in the manner claimed. Findings of the examiner in this regard must be made explicit. As such claim 12 is patentable for at least these reasons as well.

Claims 15-19, 21-22 and 32-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Novak, in view of Kerman, Hunter and Rodriguez.

Claim 15 recites selecting, by one of the first communication device and the second communication device, a personal media delivery cost that is based on at least queuing; and detecting, by the second communication device, the personal media channel that was pushed to the second communication device. As such, claim 15 is patentable for at least these reasons.

Claim 19 recites selecting, by one of the first communication device and the second communication device, a personal media delivery cost that is based on at least queuing. As such, claim 19 is patentable for at least these reasons.

Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over Novak, in view of Kerman, Hunter and Rodriguez, and further in view of U.S. Patent No. 7,065,778 issued to Lu et al. (Lu).

Claim 20 depends from claim 19 and is, therefore, patentable for at least the same reasons as given above in support of claim 19.

#### *New Claim 34*

Claim 34 depends from claim 1 and is, therefore, patentable for at least the same reasons as given above in support of claim 1. Further, claim 34 recites that the first communication device activates the television display and displays a queuing delivery option, the second communication device pushes the non-broadcast media channel over the communication network to the at least one communication device based on queuing after the detection of the non-broadcast media channel and selection of the queuing delivery option. As such, claim 34 is patentable for at least these reasons as well.

*Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted by,

Dated: February 8, 2012

/Robert K. Fergan/  
Robert K. Fergan, Reg. No.: 51,674  
Attorney for Applicants

BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, IL 60610  
(734) 302-6000